

REMARKS

Initially Applicant would like to express appreciation to the Examiner for the detailed Official Action provided.

Applicant submits that the instant amendment is proper for entry after final rejection. Applicant notes that no question of new matter or any new issues are raised by entering the instant amendment of the claims and that no new search is required.

Moreover, Applicant submits that the instant amendment places the application in condition for allowance, or at least in better form for appeal.

Accordingly, Applicant requests that the Examiner enter the instant amendment, consider the merits of the same, and indicate the allowability of the present application and each of the pending claims.

Upon entry of the above amendments, claims 1, 3, 5, 7, 8 and 10 will have been amended, and claims 2, 6 and 9 will have been canceled (without prejudice or disclaimer to the subject matter contained therein). Applicants note that independent claims 1, 5 and 8, have been amended to incorporate features generally similar to features recited in presently cancelled claims 2, 6 and 9, respectively. Claims 1, 3-5, 7, 8 and 10 are currently pending.

Applicant respectfully request reconsideration of the outstanding rejections, and allowance of the claims pending in the present application.

In the Official Action, the Examiner has rejected claims 1, 5 and 8 under 35 U.S.C. § 102(b) as being anticipated by newly-applied TRONVILLE (U.S. Patent No. 4,432,564).

In this regard, Applicant notes that TRONVILLE fails to teach or suggest the combination of elements as recited in independent claims 1, 5 and 8.

In particular, claims 1, 5 and 8 each sets forth a torsion beam axle suspension including, inter alia, a mount provided in the outermost end of the left and right trailing arms that mounts a shock absorber, the mount comprising: a ball joint having a generally cylindrical socket, insertion holes provided on opposing surfaces of the socket, and fasteners inserted into the insertion holes, wherein a position of the shock absorber is configured to be adjusted according to a fastening level of the fasteners.

Applicant submits that TRONVILLE lacks any disclosure of at least the above-noted combination of elements.

In setting forth the rejection, the Examiner asserts that TRONVILLE discloses a shock absorber mount (52) provided inside of the outermost end (14a) of the trailing arms (14) and rearward of the wheel connector (18). However, the device of TRONVILLE is structurally very different from the torsion beam axle suspension of the presently claimed invention.

In this regard, TRONVILLE merely discloses a stirrup-shaped support member (52) for anchoring a lower end of a conventional shock absorber. Thus, TRONVILLE does not disclose at least the presently claimed mount provided in the outermost end of the left and right trailing arms that mounts a shock absorber, the mount comprising: a ball joint having a generally cylindrical socket, insertion holes provided on opposing surfaces of the socket, and fasteners inserted into the insertion holes, wherein a position of the shock absorber is configured to be adjusted according to a fastening level of the fasteners, as recited in claims 1, 5 and 8.

Applicant further notes that, “[a]bsent a disclosure in a single reference of each and every element recited in a claim, a *prima facie* case of anticipation cannot be made under 35

U.S.C. § 102. Since the applied reference fails to disclose each and every element recited in independent claims 1, 5 and 8 as well as claims 3, 7 and 10 dependent therefrom, these claims are not anticipated thereby.” Further, all pending dependent claims recite additional features that further define the present invention over the prior art.

Accordingly, the Examiner is respectfully requested to withdraw the rejection under 35 U.S.C. § 102 and allow all pending claims in the present application.

In the Official Action, the Examiner has rejected dependent claims 2, 6, and 9 under 35 U.S.C. § 103(a) as being unpatentable over TRONVILLE in view of MACISAAC (U.S. Patent No. 4,550,926), and

Claims 3, 7, and 10 as being unpatentable over TRONVILLE in view of MACISAAC, and further in view of MOLENAAR (U.S. Publication No. 2005/0047851).

Applicant respectfully traverses the rejection of claims 2, 3, 6, 7, 9 and 10 under 35 U.S.C. § 103(a).

In this regard, Applicant submits that dependent claims 3, 7 and 10 are at least patentable due to their respective dependencies from claims 1, 5, and 8 for reasons noted above. In this regard, even assuming arguendo that the teachings of TRONVILLE, MACISAAC and MOLENAAR, have been properly combined; the proposed combination still would not have resulted in the features of the embodiments of the present disclosure.

More particularly, Applicant notes that the ball joint of MACISAAC is not shown in detail, and the ball joint of MOLENAAR has a spherical shape (see, Figure 1) and has set screws for fastening a retainer member in order to retain the ball joint 21. More particularly, the ball joint (23), as well as the set screws (20), of MOLENAAR are located remotely from the axle (33)[see, FIG. 4]; that is, the ball joint of MOLENAAR does not correspond the

presently claimed mount which includes a ball joint.

Therefore, MACISAAC and MOLENAAR, which the Examiner relies on as purportedly disclosing the presently claimed ball joint, both fail to disclose at least the presently claimed mount provided in the outermost end of the left and right trailing arms that mounts a shock absorber, the mount comprising: a ball joint having a generally cylindrical socket, insertion holes provided on opposing surfaces of the socket, and fasteners inserted into the insertion holes, wherein a position of the shock absorber is configured to be adjusted according to a fastening level of the fasteners.

In regard to the rejection of claims 3, 7 and 10, the Examiner acknowledges that TRONVILE does not disclose the presently claimed ball joint. However the Examiner takes the position that it would have been obvious to modify TRONVILE with the ball joint purportedly taught by MACISAAC, and further to modify the ball joint (as purportedly disclosed in MACISAAC) to include, *inter alia*, at least one hole to receive a fastener and a ball stud fitted in the socket, as purportedly taught by MOLENAAR. However, modifying TRONVILE to include the ball joint, as purportedly taught in MACISAAC and further modifying the reference, with the purported teachings of MOLENAAR, to include at least one hole to receive a fastener and a ball stud fitted in a socket appears to constitute an impermissible modification of a modification.

Thus, even assuming, arguendo, that the teachings of TRONVILE, MACISAAC, and MOLENAAR, have been properly combined; the proposed combination still would not have resulted in the features of the embodiments of the present disclosure, as recited in amended claims 1, 5 and 8. Further, the only reason to combine the teachings of the applied prior art

results from a review of Applicant's disclosure and the application of impermissible hindsight.

Accordingly, the rejection of claims 2, 3, 6, 7, 9 and 10, under 35 U.S.C. § 103(a) is improper for all the above reasons and withdrawal thereof is respectfully requested.

Further, Applicant also expressly incorporate all other arguments made in Applicant's previous Responses.

In view of the arguments herein, Applicant submits that independent claims 1, 5 and 8 are in condition for allowance. With regard to dependent claims 3, 7 and 10, Applicant asserts that they are allowable on their own merit, as well as because of their respective dependencies from independent claim 1 which Applicant has shown to be allowable.

Thus, it is respectfully submitted that all of the claims in the present application are clearly patentable over the references cited by the Examiner, either alone or in combination, and an indication to such effect is respectfully requested, in due course.

SUMMARY

Applicant submits that the present application is in condition for allowance, and respectfully requests an indication to that effect. Applicant has argued the allowability of the claims and pointed out deficiencies of the applied references. Accordingly, reconsideration of the outstanding Official Action and allowance of the present application and all the claims therein are respectfully requested and is now believed to be appropriate.

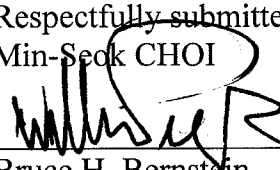
Applicant notes the status of the present application as being an after final rejection and with respect to such status believes that there is a clear basis for the entry of the present amendment consistent with 37 C.F.R. § 1.116. Applicant notes amendments after final are not entered as a matter of right; however, Applicant submits that the present amendment does not raise the question of new matter. Moreover, the present amendment clearly places the present application in condition for allowance.

Applicant notes that this amendment is being made to advance prosecution of the application to allowance and should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejection is made by the present amendment. All other amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

May 14, 2007
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